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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 9 September 2004 from the Permanent Mission of Fiji to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of the Fiji Islands to the United Nations presents its compliments to the Chairman of the Committee and has the honour to submit herewith Fiji's report pursuant to paragraph 6 of Security Council resolution 1455 (2003) (see annex).

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Annex to the note verbale dated 9 September 2004 from the Permanent Mission of Fiji to the United Nations addressed to the Chairman of the Committee

REPORT TO SECURITY COUNCIL COMMITTEE AL-QAIDA AND TALIBAN RESOLUTION 1267

Report to the Security Council Committee established pursuant to Resolution 1267 (1999) pursuant to paragraph 6 and 12 of Resolution 1455 (2003).

Republic of the Fiji Islands

I. Introduction

1. **Please provide a description of activities, if any, by Osama bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region as well as likely trends.**

There has been a long held belief that Fiji's isolation will cushion it from any perceived foreign threats. The development of the modern jet liner and quick turn round times of flights has vaporized this faith and Fiji has to contend with all threats that a modern terrorist poses. While we may also think that Fiji poses no threat nor can find a conceivable reason for a terrorist, to find Fiji a lucrative target; recent terrorist bombs however have hit indiscriminately and foreseeable trends could see terrorists hitting at 'soft targets'. Should Fiji insist on insularity, this can lead to complacency if it does not move away from a reactive to a proactive approach. Attitudes have changed rather rapidly since Indonesia's Bali Tourist Resort bomb of 12 October 2002. The bomb at Jakarta's Marriot Hotel on 05 August 2003 reinforced the fact that a perceived threat can indeed turn out to be a very real threat.

On 24 February 2003, Sheikh Abdul Maajid_was declared a persona-non-grata and sent out from Fiji. The allegation was the Sheikh's involvement with two other people claimed to be members of Al-Qaida surreptitiously taking photographs of the ANZ Bank in Apia, Samoa. The Sheikh originally from Sudan had spent over twenty years teaching at the Islamic Institute of the South Pacific in Suva, Fiji. The Islamic Institute is funded by Saudi Arabia and is the center of Muslim teaching excellence in Fiji.

The threat from the Moslems is so small to be negligible however; based on the incident with Sheikh Abdul Maajid it cannot be totally overlooked. The intelligence organizations in Fiji monitor the work of certain Moslem followers whose activities have come to the attention of the authorities. Most of these activities have occurred when the people have returned from their pilgrimage to Mecca. Intelligence authorities under Interpol have informed Fiji of these contacts. The linkage between these incidents and Al-Qaida cannot be clearly defined at this time but judging from what the terrorists have perpetrated to date, vigilance will continue to be the watchword.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

The list is sent to the Ministry Foreign Affairs, the Ministry of Home Affairs and the Director Special Branch (DSB). The DSB is the lead intelligence unit in Fiji and it is the Director that makes the decision as to what is to be done next. At all stages of the process, Fiji is very conscious of the need to safeguard the human rights of every individual mentioned on the list. The DSB starts this assurance through a series of verification by; cross-indexing the names with the Financial Intelligence Unit (FIU) *vide* answer to question 10; and conducting its own background check with allied intelligence organizations overseas. Should this stage demand a more thorough police investigation the DSB informs the Director Criminal Investigations (DCID). The DCID conducts the investigations per the DSB prescription. Further police action is dictated by the findings of the DCID. The investigation documents are filed rather than closed in case new evidence emerges to warrant the reopening of the case.

The laws of Fiji contain clauses to deal with any manner of breach the terrorist may commit; the prerogative to enact new legislations remains with Government and the necessary laws will be passed as the need arises.

Police, Immigration Control and Consular Authorities

The Commissioner of Police has the authority to order an investigation[1] if he has *reasonable grounds* to believe that a crime has been committed. This is a potent authority as it gives the Police the authority to recall a case when they need to, and in addition keep the case always in the purview of the Police at all times.

The Immigration Department places all names conveyed via the Committee's list on their watch list and monitors the movement of people with similar names under scrutiny. Consular officers overseas are kept abreast of the activities and are instructed to inform Fiji should a similar name come across their desk to apply for visas or for other reasons.

3. Have you encountered any problem with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

The sizeable Moslem community in Fiji sometimes causes confusion with identifying the true person, for example Mohamed Jahir Khan, a Fiji Moslem, was held up for identification verification by the US Immigration, for three hours in Honolulu because he had the same name as someone wanted for questioning in Illinois. Any country with a sizeable Moslem community similar to Fiji will continue to face the same problems until someone comes up with a better identification procedure.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

The only people identified are those who for some reason had associated themselves with people of shady characters en route back from the Mecca pilgrimage in either Pakistan or Saudi Arabia mainly. These people's movements are verified and checked and their movements monitored as explained (under question 1) in paragraph 1. above. However, should others be identified and apprehended within Fiji, they will undergo the due process of the law as allowed under our legislations; the coordination and liaison of our activities with other interested organizations will of course take place.

[1] Section 30 Proceeds of Crime Act 1997

5. **Please submit to the Committee , to the extent possible, the names of the individuals or entities associated with Osama bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.**

To date, we have no names to add to the Committee's List. We shall of course submit any name that comes our way to the Committee.

6. **Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate as appropriate.**

No one has taken out a lawsuit or engaged in legal proceedings against our authorities.

7. **Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.**

No one on the List has been identified as nationals of Fiji, neither have we any information to add to those listed.

8. **According to your national legislation, if any, please describe any measure you have taken to prevent individuals and entities from recruiting or supporting Al-Qaida in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.**

The Fiji Police are well established and cover the territory of Fiji very extensively; no Al-Qaida activity can hope to elude the close scrutiny of the police for too long. In addition the Fiji Military Forces conduct maneuvers at locations selected at random throughout the country. The police in the South Pacific Region are well connected in their communications through the Australian funded and established extranet. Information about any Al-Qaida or other entity conducting training in the region will be quickly communicated around the region.

III. Financial and Economics Assets Freeze

9. Please describe briefly:

- **the domestic legal basis to implement the asset freeze required by the resolution above;**

- **any impediments under your domestic law in this context and steps taken to address them.**

The very same authority that allows the Commissioner of Police to cause an investigation to be conducted on the principle of *"reasonable grounds,"* is the same principle that is applied before an asset is frozen[2]. The police have to ensure that there is sufficient evidence to support their submission to freeze assets. For the moment this authority has yet to be tested, it is believed that the "written-in" checks and balances of our system will allow cases to proceed with very strong grounds of it being upheld in a court of law. However, should a case arise that seriously challenges the present status quo the Government will work fairly urgently to address the shortcoming.

As mentioned our present law has yet to be seriously challenged in order that impediments may be identified, but we are certain that the pace we have selected to address resolution 1267, is right for us because it allows us to take corrective action as and when required and includes restraints to protect us from going too far and be regarded as becoming too draconian and deny individuals their basic human rights.

FTS Act

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

[2] Section 30 Proceeds of Crime Act 1997.

Fiji established an interim Financial Intelligence Unit (FIU) on 14 July 2004 under a memorandum of agreement between the Ministry of Justice, the Reserve Bank of Fiji, the Director of Public Prosecution and the Fiji Police Force. The FIU is housed in the Reserve Bank of Fiji until the enactment of a proposed Financial Transactions Reporting Act, which would establish the FIU by law.

Two Officers on secondment from the Reserve Bank of Fiji and the Fiji Police Force currently staff the FIU. The FIU reports to the Governor of the Reserve Bank of Fiji on the exercise of its powers and the performance of its duties and functions. The National Anti-Money Laundering Officials Committee provides an advisory support to the FIU. The FIU became operational in November 2003 and is now the central agency in Fiji responsible for receiving, analyzing and disseminating to the relevant law enforcement authorities suspicious transaction reports and other financial information concerning suspected proceeds of crime and other related serious offences in order to counter money laundering and the financing of terrorism in Fiji. The FIU also plays a key role in coordinating Fiji's anti-money laundering fight. Prior to this agreement, financial institutions were required to submit suspicious transaction reports to the Fiji Police Force and the Director of Public Prosecutions, and the Reserve Bank of Fiji separately.

The handling of the suspicious transaction reports and other financial information by the FIU is expected to make Fiji's anti-money laundering regime more efficient in the way that the other relevant authorities within this regime would be able to dedicate their resources more effectively to their respective functions. The collection, analysis and dissemination of STR information would provide financial intelligence to law enforcement and revenue agencies and contribute to the maintenance of law, order and security in Fiji. It is anticipated that the dissemination and exchange of financial intelligence information to and from a range of overseas financial intelligence units would also contribute to international efforts to suppress money laundering and financing of terrorism. Fiji will seek to become a member of the Egmont Group of FIU's when the formal FIU is established under the proposed new FTR Act.

The region has a South Pacific Chiefs of Police Conference (SPCPC) which meets once a year. The members are American Samoa, Australia, Cook Islands, Federated States of Micronesia, Fiji Islands, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, New Zealand, Niue, Northern Mariana Islands, Papua New Guinea, Palau, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. It has a working group which meets regularly to find ways of implementing the conference's resolutions. The FIU was a suggestion made to the

group for individual country's to decide whether to establish an FIU or not. It is the hope that eventually all SPCPC members will have FIU's to act as the central coordinating body in the region and serve both national and regional needs. The regional communication network is already in place as described under question 8 above.

The regional police extranet communication network is connected to the vast Interpol network at its Headquarters at Lyons, France via Canberra. As seen, the region depends a great deal on Australia to provide its international link though Interpol and its Australian Federal Police attachés posted at various Australian Foreign Embassies.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of , Osama bin Laden or members of Al-Qaida or Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced including the names and activities of agencies responsible for oversight.

The Reserve Bank of Fiji (RBF) is the institution that regulates all foreign currency transactions in Fiji under the Exchange Control Act. It controls money coming into and leaving the country and Fiji's foreign reserve and exchange rates and oversees banking practices. In close coordination with the Fiji Police the RBF monitors the monetary transactions and focuses attention on those areas the FIU vis-à-vis police are interested in. The international banks in Fiji are the; Australia and New Zealand Bank, Westpac Banking Group, Bank of Hawaii and the Bank of Baroda of India. All of them have been well established in Fiji and adhere and cooperate well with RBF.

The banking institutions meet regularly with the RBF to ensure that standards are maintained and guidelines are rigidly monitored.

Fiji is a small country and due diligence or know your customer is practiced or enforced by having banks ensure that their customers are known to the bank before transactions are conducted. In certain circumstances, a police officer is required to accompany the customer and identify the person to the bank officer. Other due diligence measures is in keeping with FATF requirements. Financial institutions are required to conduct customer due diligence as required under the Reserve Bank of Fiji's Anti- Money Laundering Guidelines.

The listed persons and entities are received by the Ministry for Foreign Affairs and distributed to the Ministry for Home Affairs and Immigration, Commissioner of Police, Director of Immigration, Governor of the Reserve Bank, and the General Managers of all commercial banks. The commercial banks are compelled to report any transactions by the persons or entities listed to the Reserve Bank who then will inform the Police/FIU

12. **Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolution 1267 (1999), 1333 (2000) and 1390 (2002). Please include, to the extent possible, in each listing the following information:**

- $ **Identification (s) of the person or entities whose assets have been frozen,**
- $ **A description of the nature of the assets frozen (i.e. bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets),**
- $ **The value of assets frozen.**

To date, Fiji has had no reason to freeze any assets of the listed individuals or entities

13. **Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of the Al-Qaida or Taliban or associated individuals or entities. If so, please provide reasons, amounts of frozen or released and dates.**

No funds were frozen so no assets were released.

14. **Pursuant to resolution 1455 (2002), 1390 (2002), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:**

- **The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include and indication of the types of institution informed and the methods used.**
- **Required bank-reported procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.**
- **Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.**
- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**
- **Restrictions or regulations, if any, applicable to alternate to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.**

In 1997, Fiji enacted two pieces legislations[3] as follows:

The Mutual Assistance in Criminal Matters Act (MACMA), and the Proceeds of Crime Act (PCA).

i. Calls for Fiji to assist the countries who have enacted the same legislation. As it stands, Fiji requires an exchange of letters between countries before the full terms of the act is brought into force. Submissions are in place to allow enactment as recognition.
ii. The freezing of the proceeds of crime comes into effect when an individual has been convicted of a serious offence. However, there is provision for the police to apply for a freeze when the case is before the courts.

MACMA regulates the obtaining of international assistance in criminal matters relating to taking of evidence, assistance in investigations and provides procedures for forfeiture or confiscation of properties used in the commission of a serious offence. This Act extends to any foreign country that has an arrangement or has entered into a reciprocal agreement on assistance in criminal matters with Fiji.

As it stands, Fiji requires an exchange of letters between countries before the full terms of the act is brought into force.

[3] Other relevant legislations includes:
The Immigration Act, Deportation Act, the Extradition Act, Banking Act and Exchange Control Act.

The PCA provides the legal mechanism for the freezing of proceeds of crime and comes into effect when an individual has been convicted of a serious offence of which the maximum penalty prescribed by law is death, or imprisonment for not less than 12 months. However, there is provision for the police to apply for a freeze when the case is before the courts[4].

The Police also have the powers to demand from banks to release and indeed inform them for any transactions of $5,000 or more. This legislation is part of the anti-drug legislation and its jurisdiction has been extended to include possible money laundering and counter-terrorism. $5000 is also the Exchange Control limit issued under the Exchange Control Act for outbound travelers.

Collection for charities or by churches in a similar manner as "hawala" or tithe is strictly controlled by the Ministry of Finance whereby all collections are followed by a statement of accounts regarding the manner money was used.

Suspicious transaction reporting.

As there is currently no requirement for banks to report significant transactions; the FIU now acts as the central agency in Fiji to deal with all Suspicious Transaction Reports (STR) and financial intelligence matters under the new framework established under a memorandum of agreement between the relevant agencies. Financial institutions have reported a total to 635 STRs since July 2000 as follows;

a. 2000- 5 STRs,
b. 2001 -81 STRs,
c. 2002- 126 STRs,
d. 2003 -221 STRs,
e. 2004 Jan-May -202 STRs.

The STRs that require investigation for possible criminal offences and other fraud are sent to Police and other law enforcement authorities for investigation.

Import/Export controls of precious metals and stone.

The relevant legislation regarding the import/export controls of precious metals and stones are contained in the Customs Tariffs Act 1986. Dealers are required to report suspicious purchase to the Police. In 2001(?), the Emperor Gold Mine in Fiji reported that gold may

[4] Sections 28-33 Proceeds of Crimes Act 1997.

have been illegally removed. In cooperation with the Western Australia Police Gold Investigating Unit, the Fiji Police managed to identify and arrest the perpetrators.

This assistance from the Western Australian Police was "freely" provided under the SPCPC "peer review", understanding,; whereby any member can ask assistance from other members. The providing organization pays for per diem and requesting nations pay airfares and accommodation. In our regional case, the providing nations are our neighbors Australia and New Zealand. Fiji has used "peer review" a number of times; in a fire death of a CEO and a fire that razed to the ground a departmental store. Another facility that Australia provides is AESOP (Australian Expert Service Overseas Programme) which the Fiji Police had utilized in investigating the collapse of the National Bank of Fiji. Inter-regional cooperation in law enforcement is well developed in the South Pacific. There is a coordinator at the Forum Secretariat who gets every one together and ensures that jurisdictions received fair treatment and even share in all things.

A concern in the area of precious metals and stones in the perceived ease in which these items in jewelry form can literally walk across the immigration and customs lines as the person simply adorns him/her with jewelry and checks out. Fiji has tried to stop this flow by allowing jewelry to the amount of $2,000 to walk away with the owner, and training the law enforcement personnel to be vigilant and keep a watchful eye.

IV. Travel Ban

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The Immigration Department of Fiji maintains a list of people on a "watch list". The list has the names of people who are not allowed to enter Fiji and by the same token those Fiji nationals who are not allowed to travel out of Fiji. The list also includes the names of the people provided by the Committee.

A problem for Fiji is its many islands which have been used in the past as part of smugglers' "drop-off point". In order that an effective observing regime is in place, we need air and sea assets. While Fiji has a Navy, it is continually asked to meet the demands of additional tasking. Fiji has no air asset.

16. **Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problem encountered.**

Connect with paragraph 15 above. The names are included in the "watch list" which contains insufficient information to make a positive identification.

17. **How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?**

The DSB liaises closely with the Director of Immigration to ensure that the lists are updated regularly. Electronic means are available to assist monitor actions of implementation.

18. **Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.**

Occasions have arisen where persons of similar names arrive at ports of entry, the lack of other pertinent data makes it difficult to actually apprehend an individual.

19. **Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa application whose name appears on the List?**

The list is circulated to consular offices and while no one has been found to have attempted to obtain visas illegally. The problem of positive identification continues to be problematic in this area also.

V. Arms Embargo

20. **What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you**

have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

Fiji has no specific measure to prevent the acquisition of weapons of mass destruction (WMD) for the simple reason that it has not WMD nor does it see itself being in receipt of any WMD in the foreseeable future.

The legislation regarding the acquisition of conventional arms in Fiji is very stringent. First there is a ceiling placed on the number of arms that can be purchased. Applicants have to provide character references as well as a doctor's report certifying that the applicant is of sound mind and body to possess a firearm. A police clearance is required to establish character, after which the Commissioner of Police may approve the sale. These checks accompany Fiji's concern regarding the proliferation of small arms in the South Pacific Region. The concern caused a former Commissioner of Police chairing a Small Arms Committees that submitted the Honiara Initiative and the Nadi Framework. Fiji fully subscribes to the UNSA Programme of Action and diligently follows the implementation text contained therein.

Fiji does not have a gun manufacturing industry but has nevertheless recently passed an Act that addresses the manufacture and sales and import of weapons and as such does not have legislation regarding sales and imports of weapons.

21. **What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?**

The firearms laws of Fiji are believed to be sufficiently prohibitive and restrictive to deter and frustrate any individual bent on breaking the embargo. In addition, the small arms allowed for sale in Fiji are for sporting purposes only and includes the .22 rifle and the 14 gauge shotguns. It will not be worth the individual's effort to use Fiji as a possible target of exploitation to a break of the embargo.

22. **Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.**

The Government of Fiji is the only arms broker in the country. Other licensing firms have to get approval from Government before any weapon is imported. In the last twenty years, the only bulk ordering of weapons was for the military and police. Non-governmental firms are only allowed to sell ammunitions. From 20 and 21, a consolidated list of all license firearms holder is kept at the Commissioner of Police's Office.

23. **Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?**

Fiji does not have a firearms manufacturing industry. In addition, the caliber of weapons would probably be not the ones the terrorists want.

VI. Assistance and Conclusion

24. Would your state be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

A regional consultation process using SPCPC or the Forum Secretariat as a means of ensuring that regional approaches are uniform and a monitoring regime is established to maintain cohesion and provide assistance to other member states as required.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.

A full identity profile of those on the list will be useful in positively identifying possible suspects. This is a problem that goes right across the operational spectrum.

26. Please include any additional information you believe pertinent.

Some effort could be used in enhancing a regional approach to maintaining a cohesive regional plan to implement UNSC Res. 1267. No single country can tackle this issue on its own. It will require the support of one's regional friends. The South Pacific nations have always adopted this regional approach; there is every reason to be optimistic about its positive outcomes.